

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

TOWN OF AMHERST, MA
HAMPSHIRE COUNTY
Received & Recorded

FEB 18, 2015

2:15 P.M.

Book Page
Attorn:

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00019, to Town of Amherst modify conditions of ZBA FY1982-47 to allow structural changes to the exterior of the pre-existing non-conforming building and to extend, alter, and/or enlarge the pre-existing non-conforming mixed use by creating new offices in the lower level, at 190 University Drive (Map 13D, Parcel 8, OP Zoning District), subject to the following conditions:

1. This permit shall supersede and replace ZBA FY1982-47 and ZBA FY1983-67.
2. The interior and exterior of the building, and all exterior site improvements, shall be used and constructed substantially in accordance with the plans prepared by Rice Yun Architects, dated August 24, 2014, last revised on December 12, 2014:
 - a. Any increase in the number of offices beyond two entities on each floor, shall require the submission of a detailed management plan regarding the uses to the Zoning Board of Appeals at a public meeting. The purpose of the review shall be to determine if the change (s) are minor, or significant enough to require modification of the Special Permit.
 - b. Any increase in the number of bedrooms will require modification of this Special Permit.
3. The gravel driveway, parking areas, and delineation shall be maintained seasonally or more often if needed in order to: a) prevent significant ruts and/or vegetation within the gravel area and, b) to maintain a distinct edge between the gravel and any lawn or landscaped areas.
 - a. In the event that the existing gravel parking area is to be paved in bituminous black-top or similar material, a plan for parking arrangement and striping shall be submitted and approved by the Zoning Board of Appeals at a public meeting
4. The installation of any new or altered signs on the property and/or building shall require a complete sign plan for the property to be submitted to the Zoning Board of Appeals for review and approval at a public meeting.
5. Trash storage shall be shielded from view from University Drive and/or Northampton Road (Route 9) by either a fence and or shrubs and shall be located substantially in accordance with the location annotated on the approved site plan.
6. All exterior lighting shall be arranged or designed to be downcast.
7. The use and property shall be managed in accordance with the approved Management Plan.

Mark Parent

Mark Parent, Acting Chair
Amherst Zoning Board of Appeals

February 18, 2015
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: David Claxton c/o Pioneer Contractors, PO Box 1145, Northampton, MA 01061
Owner: Carol Booth & Linda Fidnick, 62 Longhill Road, Leverett, MA 01054

Date application filed with the Town Clerk: January 9, 2014

Nature of request: For a Special Permit to modify conditions of ZBA FY1983-67 to allow structural changes to the exterior of the pre-existing non-conforming building and to extend, alter, and/or enlarge the pre-existing non-conforming mixed use by creating new offices in the lower level of the building.

Address: 190 University Drive (Map 13D, Parcel 8, OP Zoning District)

Legal notice: Published on December 31, 2014 and January 7, 2015 in the Daily Hampshire Gazette and sent to abutters on December 30, 2014

Board members: Mark Parent, Yuri Friman, Carolyn Holstein

Staff members: Jeff Bagg, Senior Planner; Rob Morra, Building Commissioner, Rob

Submissions:

- Application form filed with the Town Clerk on December 16, 2014
- Site and Architectural plans prepared Rice Yun Architects, dated August 24, 2014, last revised on December 12, 2014
- Town GIS aerial and zoning map
- Photographs of existing conditions (x8), prepared by Town staff
- ZBA FY1982-47, with approved plans

Site Visit: January 14, 2015

Mark Parent and Yuri Friman met the contractor, David Claxton at the site. Ms. Holstein viewed the site separately. The location of the property at the corner of Northampton Road and University Drive was observed, along with the following:

- The existing parking area on the north side of the property
- The exterior of the building including locations for the proposed handicapped accessible ramps
- The approximate location of the front and rear property lines.

Public Hearing: January 15, 2015

The owner, Carol Booth, was accompanied by her contractor, David Claxton.

Ms. Holstein disclosed that Linda Fidnick was her neighbor in the past and noted that this would not affect her ability to make an impartial decision.

Mr. Claxton explained the following:

- Many years ago the basement portion of the building was used by Ms. Booth for her law practice. However, the basement was vacant for some time and the interior demolished to remediate a moisture issue.
- The proposal involves two general components:
 - Exterior/structural alterations to the building to create new handicapped accessibility
 - Expansion of the existing use, through the conversion of basement space into new offices.
- The existing configuration of the building contains a first floor office consisting of five individual office spaces, a kitchen, waiting room, reception area, and conference room. Based on the calculation of the footprint, this is approximately 1,740 gross square feet. The second floor contains one dwelling unit consisting of three bedrooms, study, laundry room, kitchen and living room.
- The proposal consists of converting the basement area into a new office consisting of five individual rooms, a reception and storage room. Based on the calculation of the footprint, the basement will add approximately 1,740 gross square feet of new office space.
- Some interior and exterior work on the building has already been completed via a validly issued building permit. Initially, the owner and contractor had been directed to apply for Site Plan Review from the Planning Board. Prior to their scheduled hearing in November, it was determined that the use of the building was actually "mixed-use" in that it contained first floor offices and a second floor apartment. Because this use is not permitted in the OP District, it was not eligible for consideration by the Planning Board. The contractor and owner then withdrew the Planning Board application and made the application for a Special Permit with the Zoning Board of Appeals.

Mr. Parent read from the Project Application Report:

- The use as office and residential existed prior to the change in zoning from Neighborhood Residence (R-N) to Office Park in 1981. Because a mixed use building is not allowed in the Office Park Zoning District, the use is pre-existing non-conforming and subject to a Special Permit under Section 9.22. The Board must find that the addition of new office spaces is not substantially more detrimental to the neighborhood than the existing uses.
- In addition to the pre-existing non-conforming use, the existing building is non-conforming in terms of the required setbacks. Because the property fronts on both University Drive and Northampton Road (Rt. 9), it has two front yards. The front yard setback requirement in the OP is 30 feet. The building is setback approximately 20 feet from the front property line adjacent to Northampton Road and 10 feet from the front property line adjacent to University Drive. Some of the exterior changes on the building are within the front setback adjacent to University Drive. Those include changes to stairs and ramp. The balance of the changes are outside of the 30 foot setback. The Board will have to determine if the proposed changes are not substantially more detrimental to the neighborhood than the existing conditions.
- Other exterior changes include the formalization of the parking. Currently, the parking spaces are not delineated and vehicles park both on both sides of the parking area, reducing maneuverability.

The Board discussed the parking area, which provides parking for 16 vehicles. It was noted that the proposed site plan depicts a reconfiguration of the parking so that all the spaces are along the east side, with each space delineated by concrete wheel stops. One handicapped space will be provided closest to the building.

The Board discussed the wetlands on the adjacent property. Mr. Claxton explained that the Conservation Commission reviewed the request on January 14, 2015 and approved it with the only requirement being to maintain the silt fence during construction.

The Board discussed the number of office tenants on each floor. Ms. Booth explained that the main level currently contains two offices, a realtor (Five College Realtors), and a mediation services. She explained that the ideal would be one office tenant in the basement, but that flexibility to have two separate tenants would be useful. The Board determined that a limit of two office tenants on each floor could be a condition of the permit.

The Board made the following findings under Section 9.22:

9.22 - The Special Permit Granting Authority authorized to act under the provisions of Section 3.3 of this bylaw may, under a Special Permit, allow a non-conforming use of a building, structure or land to be changed to a specified use not substantially different in character or in its effect on the neighborhood or on property in the vicinity. Said Authority may also authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally altered, enlarged or reconstructed; provided that the Authority finds that such alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming building. The Board finds that the creation of new office space in the basement and the changes to the building will not be substantially more detrimental to the neighborhood for the following reasons:

- The creation of the basement offices will be similar to prior use of the space.
- The property provides the required number of parking spaces for the total square footage of office space and the parking for the single dwelling unit.
- The proposal will enhance the accessibility to both office spaces. Other than the changes for accessibility, the structural changes to the building for the new office space are minimal.

The Board made the following findings under Article 7:

7.0041 - In the B-L and COM Districts (exclusive of those areas cited in 7.0040) and the OP, PRP and LI Districts, the parking requirement shall be the sum of the following: 3.3 spaces/1,000 sq. ft. for the first 10,000 sq. ft. of GFA (please define what GFA is)

7.0000 - Two (2) parking spaces for each dwelling unit.

7.6 - Parking spaces shall be provided for the physically handicapped according to the following table: 10-20 spaces - 1 handicapped space.

The proposal provides for a total of 16 parking spaces (including one handicapped space). The total GFA of the office use will be 3,480 sq. ft. (1,740 x 2). Therefore, the required number of spaces for the office use is 12 ($3,480/1,000 = 3.48 \times 3.3 = 11.5 > 12$). The dwelling unit requires two spaces. Therefore, a total of 14 parking spaces are required for the combined office and residential use.

7.0001 - Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101). The parking and drive aisle consist of gravel/trap rock. The Board identified that a condition of the approval would require maintenance of the gravel surface and a requirement to present a plan if the surface is changed to bituminous blacktop.

7.101- Paving: *For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.*

The Board found that, based on the testimony of the owner, the condition of the gravel drive and parking area is adequate to provide a solid surface on which the vehicles could park.

7.104- Dimensions, Marking & Delineation - *The area of all parking areas shall be included in the calculation of maximum lot coverage.* Based on a Town GIS map, the approximate total lot coverage calculation is 56.5% which complies with the total lot coverage limitation of 65% in the OP district.

Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage. The proposed parking area will be delineated by the installation of concrete wheel stops. The parking area is generally flat and compacted and there does not appear to be any issues related to drainage. The west side of the driveway/parking area shall be maintained to ensure there is a clear separation between the gravel and lawn area.

Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas. The proposal provides parking spaces which are 9 feet x 18 feet.

Specific Findings:

The Board found under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal provides for an expansion of office use which is allowed by-right in the Office Park. The expansion of the office space in a building with one apartment is compatible in this location, which is at the beginning of University Drive, but also abuts a residential zoning district.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The proposal will provide for enhanced handicapped accessibility to both office spaces. The changes to the building and site to accommodate the additional accessibility are minor. The proposal will not constitute a nuisance or inconvenience through the provision of downcast lighting, screening of trash and recycling, better organization of the existing parking, area and the addition of some landscaping.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* With regard to parking, see findings under Article 7. The permit will be conditioned to require the submission of a complete sign plan for the property which will show compliance with Article 8 of the Zoning Bylaw.

10.387 - *The proposal provides convenient and safe vehicular and pedestrian movement within the site, and in relation to adjacent streets, property or improvements.* The proposal will limit parking to the east side of the parking area, with each space delineated with concrete wheel stops. The proposal also provides a designated handicapped accessible parking space.

10.398- The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan. The proposal provides for the expansion of an existing office use in the Office Park Zoning District. The conversion of basemen to new offices complies with the goal of the Master Plan to "preferentially direct future development to existing built-up areas".

Zoning Board Decision

Ms. Holstein MOVED to approve the application with conditions. Mr. Parent seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00019, to modify conditions of ZBA FY1982-47 to allow structural changes to the exterior of the pre-existing non-conforming building and to extend, alter, and/or enlarge the pre-existing non-conforming mixed use by creating new offices in the lower level, at 190 University Drive (Map 13D, Parcel 8, OP Zoning District), subject to conditions.

Mark Parent (JA)
MARK PARENT

Yuri Friman (JA)
YURI FRIMAN

Carolyn Holstein (JB)
CAROLYN HOLSTEIN

FILED THIS _____ day of _____, 2014 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2014.

NOTICE OF DECISION mailed this 19th day of February, 2014
to the attached list of addresses by Jeffrey R. Bagg, for the Board.

CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2014.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2014,
in the Hampshire County Registry of Deeds.

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To David Claxton c/o Pioneer Contractors

Address PO Box 1145

City or Town Northampton, MA 01061

Identify Land Affected: 190 University Drive
(Map 13D, Parcel 8, OP Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

190 University Drive Amherst
Street City or Town

The record of title standing in the name of
Carol Booth & Linda S. Fidnick
Name of Owner

Whose address is 62 Long Hill Road Leverett MA 01054
Street City or Town State Zip Code

By a deed duly recorded in the
Hampshire County Registry of Deeds: Book 4578 Page 55
or

Hampshire Registry District of the Land Court, Certificate No. _____,
Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2015-00019
In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Mark Parent (seal) Chairman
(Board of Appeals)
Carolyn Holstein (seal) Clerk
(Board of Appeals)

_____ at _____ o'clock and _____ minutes _____ m.
Received and entered with the Register of Deeds in the County of Hampshire
Book _____ Page _____

ATTEST _____

Register of Deeds
Notice to be recorded by Land Owner

BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED

Petition of David Claxton c/o Pioneer Contractors

For A Special Permit to modify conditions of ZBA FY1983-67 to allow structural changes to the exterior of the pre-existing non-conforming building and to extend, alter, and/or enlarge the pre-existing non-conforming mixed use by creating new offices in the lower level of the building.

On the premises of 190 University Drive
At or on Map 13D, Parcel 8, OP Zoning District

NOTICE of hearing as follows mailed (date) December 30, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated December 31, 2014 and January 7, 2014

Hearing date and place January 15, 2015 (Town Hall)

LEGAL NOTICE
The Amherst Zoning Board of Appeals will meet on Thursday, January 15, 2015, at 6:30 P.M. in the Town Room, Town Hall, to conduct the following business:

PUBLIC HEARING:
ZBA FY2015-00017 - William Rock - For a Special Permit to modify conditions of ZBA FY2001-0004 to allow an increase from three to six vehicles, at 24 Kellogg Avenue (Map 11C, Parcel 290, B-G Zoning District)
ZBA FY2015-00018 - Valley Home Improvement - For a Special Permit to modify conditions of ZBA FY2013-00030 to allow the construction of a two-bay carport and small addition to the existing dwelling, at 52 North Prospect Street (Map 11C, Parcel 213, R-G Zoning District)
ZBA FY2015-00019 - Pioneer Contractors - For a Special Permit to modify conditions of ZBA FY1983-67 to allow structural changes to the exterior of the pre-existing non-conforming building and to extend, alter, and/or enlarge the pre-existing non-conforming mixed use by creating new offices in the lower level, at 190 University Drive (Map 13D, Parcel 8, OP Zoning District)

ERIC BEAL, CHAIR
AMHERST ZONING BOARD OF APPEALS
December 31, January 7 2015

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00019, to modify conditions of ZBA FY1982-47 to allow structural changes to the exterior of the pre-existing non-conforming building and to extend, alter, and/or enlarge the pre-existing non-conforming mixed use by creating new offices in the lower level, at 190 University Drive, subject to conditions

Mark Parent - Yes Yuri Friman - Yes Carolyn Holstein - Yes

DECISION: APPROVED with conditions

STAPLES

Étiquette de format 25 mm x 67 mm compatible avec Avery® 5160/8160
label size 1" x 2 5/8" compatible with Avery® 5160/8160

13D-9
COOLEY DICKINSON HOSPITAL INC
30 LOCUST ST
NORTHAMPTON, MA 01060

13D-27
TC LLC
458 RUSSELL ST
HADLEY, MA 01035

13D-26
SPENCE, MARVIN J & GEORGE A
P O BOX 16
HATFIELD, MA 01038

13D-19
WZIONTKA, FRANK, LIFE ESTATE
C/O JANYCE WZIONTKA
P.O. BOX 610274
POMPANO BEACH, FL 33061

13D-5
CHOU, TSAI CHIAO & WU, EVA TRUSTEES
351 NORTHAMPTON RD
AMHERST, MA 01002

13D-18
AMHERST ASSOCIATES LLC
ACCOUNTING
342 NO MAIN ST
WEST HARTFORD, CT 06117

13D-64
SPENCE, MARVIN J & GEORGE A
PO BOX 16
HATFIELD, MA 01038

13D-44
SIT, LEE HEUNG TRUSTEE OF SIT FAM
TRUST
239 SNELL ST
AMHERST, MA 01002

13D-71
KATZ, MICHAEL L
260 SNELL ST
AMHERST, MA 01002

13D-50
A N H INC
150 UNIVERSITY DR
AMHERST, MA 01002

13D-49
COOLEY DICKINSON HOSPITAL INC
30 LOCUST ST
NORTHAMPTON, MA 01060

13D-59
AMHERST SHOPPING CTR ASSOC LLC
50 SALEM ST
LYNNFIELD, MA 01940

13D-8
BOOTH, CAROL & FIDNICK, LINDA S
62 LONG HILL RD
LEVERETT, MA 01054

STAPLES

label size 1" x 2 5/8" compatible with Avery® 5160/8160
Étiquette de format 25 mm x 67 mm compatible avec Avery® 5160/8160